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3 *E-filed on* 4/8/08

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 REHAN SHEIKH,
13 Plaintiff,
14 v.
15 CISCO SYSTEMS, INC., and DOES 1 through
20, inclusive,
16 Defendants.

17 No. C-07-00262 RMW

18 ORDER SETTING BRIEFING SCHEDULE
FOR PLAINTIFF'S SECOND MOTION FOR
REMAND

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20 On June 13, 2007 the court issued an order denying *pro se* plaintiff Rehan Sheik's motion to
21 remand on the basis that plaintiff's claims arise out of the administration of an employee benefit plan
22 covered by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et*
23 *seq.* and, therefore, were preempted by ERISA. Plaintiff asked the court to reconsider its order
24 stating that his long-term benefits were recently granted and, therefore, are no longer at issue in this
25 action. On August 10, 2007, the court denied plaintiff's request for reconsideration. It agreed,
26 however, that plaintiff's claims, if amended as represented in his motion for leave to file a motion for
27 reconsideration, might not be preempted by ERISA and gave him leave to file a second amended
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United States District Court
For the Northern District of California

1 complaint to state claims for state-based benefits and discrimination based on events not involving
2 the administration of his long-term benefits claim.

3 Plaintiff filed his second amended complaint on August 31, 2007, to which defendant Cisco
4 Systems filed an answer on September 13, 2007. On February 14, 2008, plaintiff filed a second
5 motion to remand to state court, to which defendant has provided no opposition, possibly because
6 plaintiff did not set the matter for hearing. On April 7, 2008, defendant filed a motion to compel
7 arbitration, setting the motion for hearing on May 16, 2008. Defendant's motion to compel
8 arbitration brought plaintiff's second motion to remand to the court's attention.

9 The court will set plaintiff's second motion to remand for hearing on the same date as
10 defendant's motion to compel arbitration. Because of the court's unavailability on the currently-
11 scheduled hearing date, the court will hear both matters on May 23, 2008. The briefing schedule
12 shall be set accordingly. Therefore, the parties' papers are due as follows:

13 • Defendant's opposition to plaintiff's second motion to remand is due by **May 2, 2008**.
14 • Plaintiff's opposition to defendant's motion to compel arbitration is due by **May 2, 2008**.
15 • Plaintiff's reply in support of his second motion to remand is due by **May 9, 2008**.
16 • Defendant's reply in support of its motion to compel arbitration is due by **May 9, 2008**.

17 The parties are to appear in courtroom #6, 4th floor of the U.S. Courthouse, 280 South First Street,
18 San Jose, California at 9:00 a.m. on **Friday, May 23, 2008**. To request accommodations regarding
19 appearing telephonically, the parties should contact the Courtroom Deputy at (408) 535-5375.

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22 DATED: 4/8/08

Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

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1 **A copy of this order was mailed on _____ 4/8/08 _____ to:**

2 **Counsel for Plaintiffs:**

3 Rehan Sheikh
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6 *PRO SE*

7 **Counsel for Defendants:**

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Counsel are responsible for distributing copies of this order to co-counsel, as necessary.